

2001 NOVEMBER 22

TO: CITY MANAGER

FROM: DIRECTOR PARKS, RECREATION AND CULTURAL SERVICES

**SUBJECT: SIMON FRASER COMMUNITY PLAN SUBDIVISION PHASE I -
PROPOSED NAHEENO PARK LEASE**

PURPOSE: To recommend to Council a change to the SFU-OCP regarding the transfer of Naheeno Park and to seek an amendment to Section 339 (1) of the Local Government Act to exempt from taxation land vested in, leased, occupied, or held, and used for Park purposes, by the Municipality.

RECOMMENDATIONS:

1. THAT, upon subdivision and creation of a legal parcel for Naheeno Park, the Park remain under SFU's ownership and management and be protected through registration of a covenant to administer the Park as a natural undeveloped park area, a statutory right-of-way for public access, and an option for the City to lease the Park in future should it be determined that it is in the City's best interest to do so.
2. THAT a letter be sent to the Province, and a resolution be sent to the UBCM, seeking an amendment to Section 339 (1) of the Local Government Act to exempt from taxation land vested in, leased, occupied, or held, and used for Park purposes, by the Municipality.

REPORT

At its meeting of 2001 November 21, the Parks, Recreation and Culture Commission received the above noted report and adopted the three recommendations contained therein.



Kate Friars
DIRECTOR PARKS, RECREATION
AND CULTURAL SERVICES

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Attachment

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cc: City Solicitor
Director Finance
Director Planning and Building

**SUBJECT: SIMON FRASER COMMUNITY PLAN SUBDIVISION PHASE I -
PROPOSED NAHEENO PARK LEASE**

RECOMMENDATIONS:

1. THAT Commission recommend to Council that, upon subdivision and creation of a legal parcel for Naheeno Park, the Park remain under SFU's ownership and management and be protected through registration of a covenant to administer the Park as a natural undeveloped park area, a statutory right-of-way for public access, and an option for the City to lease the Park in future should it be determined that it is in the City's best interest to do so.
2. THAT the Mayor and Council be requested to send a letter to the Province, and a resolution to the UBCM, seeking an amendment to Section 339 (1) of the Local Government Act to exempt from taxation land vested in, leased, occupied, or held, and used for Park purposes, by the Municipality.
3. THAT a copy of this report be sent to SFU and Burnaby Mountain Community Corporation.

REPORT

Introduction

Staff have been working with Simon Fraser University's developer, Burnaby Mountain Community Corporation (BMCC) and its consultant team since Spring 2000 towards BMCC's objective of obtaining Subdivision Approval for the creation of parcels for the development of the first phase of the market residential community at SFU. Of specific interest to the Commission is the subdivision and subsequent lease to the City of several proposed park sites identified in the SFU Official Community Plan (OCP). The purpose of this report is to apprise the Commission of an unexpected cost associated with the leases, in the form of annual property taxes for which the Municipality has no exemption under current legislation, and to recommend to Council an adjusted approach to the management of Naheeno Park.

Official Community Plan for SFU

An Official Community Plan for Simon Fraser University was adopted by Burnaby City Council on 1996 September 9 along with a re-zoning of the SFU site to P11 SFU Neighbourhood District zoning. The Plan provides for Simon Fraser University's institutional needs into the future and permits leasehold subdivision of portions of the University's land for development of market housing. Property used for non-university purposes will become subject to property taxation, utility user fees and other applicable charges in the same manner as other Burnaby taxpayers.

**SUBJECT: SIMON FRASER COMMUNITY PLAN SUBDIVISION
PHASE I - PROPOSED NAHEENO PARK LEASE**

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Under the approved Plan, two market residential neighbourhoods (South and East) totaling up to approximately 65 ha (160 acres) in area can potentially be developed with up to 4,536 housing units. The core area for each neighbourhood has a school/park site as a central element. The Official Community Plan for SFU includes a provision for neighbourhood park space, retention of the Naheeno Ravine as natural undeveloped park and resident access to recreation facilities (see Attachment).

Simon Fraser University has chosen to start with the development of the East Neighbourhood residential community. BMCC has now completed the preparation of its East Neighbourhood Plan and has submitted a subdivision application triggering the subdivision and creation of legal parcels for the East Neighbourhood Park and Naheeno Park and their subsequent lease to the city. Arising from the earlier development of the East Neighbourhood Plan are a number of minor OCP amendments requested by BMCC which staff intend to recommend to Council once the Subdivision process is a little more advanced. Included are changes to the East Neighbourhood Park and School site area requirements which will be outlined in a future report.

Naheeno Park Lease

Also included in the first phase, is the subdivision of the Naheeno Park lands into one 28.7 acre lot (Lot 1) for lease to the City as a natural undeveloped park. The OCP requires that at the time of the first subdivision for a residential leasehold parcel, a co-terminus lease over Naheeno Park will be provided to the City at no cost. To this end, a draft lease for Naheeno Park was prepared by SFU and has been reviewed by City Staff. It was noted that the Lessee(City) is to be responsible for all taxes, charges, rates, assessments, expenses and costs or payments of every nature arising from or related to Lot 1, or any improvements on Lot 1.

The City has paid property tax in the past for lands leased for park purposes and staff advise that the annual cost of these leases can be significant. In light of these past experiences and a recent property tax assessment for land leased for park at Confederation Park, an estimate of the annual taxes for the proposed park sites at SFU was requested from the B.C. Assessment Authority(BCA) before committing to the Naheeno Park Lease. BCA has provided assessed values for the four potential park sites at SFU based on the land's current use and its future value once residential development at SFU has been completed. An estimate of the annual taxes has been calculated based on BCA's assessment and the 2001 Class 8 (Recreation) tax rate of 7.3415 per \$1,000 of assessed value. The total estimated annual taxes for all four park sites is \$94,043(current) and \$123,814 (future) with the majority of the cost attributed to the larger 11.25 hectare (28.7 acre) Naheeno Park parcel which would be taxed in the amount of \$73,745(current) and \$94,815 (future) annually. Only a portion of these annual taxes come back to the City with a significant portion going to other public authorities such as school, GVTA hospital, BC Assessment, and GVRD taxes. The above estimates would be subject to change over time as the assessed values of the properties fluctuate.

Tax Exemption for Lands Leased for Park Purposes

In both the recent Confederation Park and SFU cases it is BC Assessment's position that a Municipality's exemption under section 339 (1) (a) of the Local Government Act, which states: *Unless otherwise provided in this Act, the following property is exempt from taxation to the extent indicated: land, improvements or both vested in, or held by, the Provincial Government or the municipality;* does not include leaseholds, and so land leased by a municipality for a park is not exempt.

Although staff have attempted to argue BCA's interpretation of "held by", and an appeal to the Property Assessment Review Panel or through the Courts could be pursued, it is the opinion of staff that the best course of action is to request the Mayor and Council to seek from the Province and through UBCM, an amendment to Section 339 (1) of the Local Government Act to clearly exempt from taxation land vested in, leased, occupied, held, and used for Park purposes by the Municipality.

In the interim, due to the large site size of Naheeno Park and the significant annual property taxes associated with the proposed lease of Naheeno Park, it is recommended that upon subdivision and creation of the legal parcel for Naheeno Park, the park remain under SFU's ownership and management and be protected through registration of a covenant to administer the Park as a natural undeveloped park area and a statutory right-of-way for public access with an option for the City to lease the Park in future. The option would only be exercised once tax exemption is assured and it is determined that it is in the City's best interest to do so. The City would proceed with a lease for the smaller East Neighbourhood Park site recognizing that payment of annual taxes of approximately \$5,010 (current) and \$7,158 (future residential) would be the responsibility of the City.

SFU through BMCC have been advised of this proposed change and support the recommendation.

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cc: City Solicitor
Director Finance
Director Planning and Building